IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO.11 OF 2006

Mrs.Dr.Vaishali NItin Thorat .. Applicant

versus

Dr.Nitin Narayan Thorat .. Respondent

...

Mr.Kishore Malpathak for the applicant.

Ms.Rajashree Sawant for the respondent.

CORAM : D.G. KARNIK, J

DATED : 6th December 2006

P.C.:

1. This petition under section 24 of the Code of Civil Procedure is filed by wife for transfer of the matrimonial proceedings bearing M.J. Petition no.438 of 2005 from the Family Court at Pune to the Family Court at Bandra, Mumbai.

2. The marriage between the petitioner and

respondent was celebrated at Shirur, District Pune on 29th December 2002. Soon thereafter they fell apart and started residing separately. Respondent husband filed a petition in the family court at Pune for restitution of conjugal rights. By this petition, the petitioner seeks transfer of that petition.

3. Learned counsel for the petitioner submitted two grounds for transfer of the petition. He firstly submitted that petitioner is staying at Mumbai as a paying guest. She cannot afford the expenses of travel from Mumbai to Pune. Secondly, he submitted that petitioner has been advised by doctors not to travel by bus and therefore she cannot travel from Mumbai to Pune.

4. The petitioner is a doctor and in her affidavit has stated that she is working and earning a salary of Rs.4,500/-. She spends Rs.2000/- per month for the stay and the remaining amount of salary is spent for food, clothing and maintainence. She therefore cannot afford the expenses of travel. As the petitioner earns salary of Rs.4500/- per month, in my view, the contention that she cannot afford the expenses of her travel is not very sound. However, the respondents through his counsel offered to pay the expenses of railway travel to the

petitioner on each date on which she travels to Pune for the hearing of the Marriage Petition. In view of this, the grievance of petitioner that she cannot afford the travel expenses does not survive.

5. The distance between Mumbai and Pune is about 160 k.m. The two cities are well connected by rail. There are atleast two to three trains leaving Bombay every morning to Pune and two - three trains in the evening leaving from Pune to Mumbai. Petitioner would therefore not be required to undertake bus travel. Therefore, the second grievance of inability to travel by bus also does not survive.

6. For these reasons, the application is dismissed In view of the offer made by the respondent to bear the expenses of travel, the respondent is directed to pay to the petitioner Rs.500/- on every date on which the petitioner is required to attend the Family Court at Mumbai. The amount of expenses shall be paid on each date of travel and if the expenses are not paid for any date, the family court would be free not to proceed with the hearing of the mariage petition of the respondent.

(D.G. KARNIK, J)